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Letter dated 6 March 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 955 (1994) of 8 November 1994 by which the Council established the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994 (hereinafter referred to as "the International Tribunal for Rwanda").

I refer also to Security Council resolutions 1165 (1998) of 30 April 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002 and 1431 (2002) of 14 August 2002, by which the Council amended the Statute of the International Tribunal for Rwanda which it had adopted in its resolution 955 (1994).

Articles 12 and 12 ter of the Statute of the International Tribunal for Rwanda, as amended, read as follows:

"**Article 12**
Qualifications of judges

The permanent and ad litem judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law."

"**Article 12 ter**
Election and appointment of ad litem judges

1. The ad litem judges of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for ad litem judges of the International Tribunal for Rwanda from States Members of the United

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Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to four candidates meeting the qualifications set out in article 12 of the present Statute, taking into account the importance of a fair representation of female and male candidates;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than thirty-six candidates, taking due account of the adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable geographical distribution;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the eighteen ad litem judges of the International Tribunal for Rwanda. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected;

(e) The ad litem judges shall be elected for a term of four years. They shall not be eligible for re-election.

2. During their term, ad litem judges will be appointed by the Secretary-General, upon request of the President of the International Tribunal for Rwanda, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years. When requesting the appointment of any particular ad litem judge, the President of the International Tribunal for Rwanda shall bear in mind the criteria set out in article 12 of the present Statute regarding the composition of the Chambers and sections of the Trial Chambers, the considerations set out in paragraphs 1 (b) and (c) above and the number of votes the ad litem judge received in the General Assembly."

The States Members of the United Nations and the non-member States maintaining permanent missions at United Nations Headquarters were invited, by a letter dated 3 January 2003, to nominate candidates for 18 posts of ad litem judge at the International Tribunal for Rwanda and were informed that within 60 days of the date of the invitation of the Secretary-General they might nominate up to four candidates meeting the qualifications set out in article 12 of the Tribunal Statute as amended.

They were also informed that, should they decide to nominate two or more candidates, it would be permissible for them to nominate two candidates of the same nationality, if they so wished. They were also informed that it would be permissible for them, should they so desire, to nominate one or more candidates of the same nationality as a permanent judge of the International Tribunal for Rwanda.

They were further notified that, should they decide to nominate one or more candidates, they should then, in accordance with article 12 ter, paragraph 1 (b), of the Tribunal Statute, take into account the importance of a fair representation of female and male candidates.

By virtue of article 12 ter, paragraph 1 (c), of the Tribunal Statute as amended, I am hereby forwarding to the Security Council the 26 nominations I have received from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters during the 60-day period prescribed in article 12 ter, paragraph 1 (b). A list of the candidates arranged in alphabetical order is annexed to this letter, as are the curricula vitae that were transmitted to me with the nominations.*

I should like to note in this connection that the number of nominations I have received is less than the minimum number (36) which, in accordance with article 12 ter, paragraph 1 (c), of the Tribunal Statute as amended, should be included in the list that the Security Council is to establish for transmission to the General Assembly.

I would stress here that, under article 12 ter, paragraph 1 (a), of the Tribunal Statute as amended, ad litem judges elected to the Tribunal in accordance with article 12 ter must serve in the Tribunal full-time during the period in which they are appointed and may not engage in any other activity of a professional nature or exercise any political or administrative function during this period.

I would also recall that, while ad litem judges are not required at any time to establish their residence at the headquarters of the International Tribunal for Rwanda in Arusha, they are required to be wholly at the disposal of the Tribunal during the period in which they are to discharge their functions.

(*Signed*) Kofi A. **Annan**

* Annex circulated only to the members of the Security Council.